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PART-I

Notifications, Orders and Declarations by Haryana Government

(TO BE SUBSTITUTED BEARING SAME NUMBER AND DATE)

HARYANA GOVERNMENT

URBAN LOCAL BODIES DEPARTMENT

Notification

The 26th June, 2018

No.19/4/2012-6C-I.— In exercise of the power conferred by Section 364 & 398 (2) (a) of the Haryana Municipal Corporation Act, 1994 and power conferred by Section 203 & 250 (a) of Haryana Municipal Act, 1973, the Government of Haryana hereby directs for the information of general public the following Policy for regularization of illegally constructed commercial/ residential buildings and regularization of illegal conversion from residential to commercial which are located in the municipal areas.

Background:

1. Unauthorized constructions and illegal conversions within municipal limits are the biggest enforcement issues which ULBs in the State are facing. Further, lack of knowledge and growing demands of general public also discourages compliance of applicable Byelaws and Rules. The situation is getting worse with every passing day to the extent that it is not possible for ULBs to regulate unauthorized constructions and illegal conversion. Further, immediate mass enforcement may also bring distress and discomfort among public. On the contrary, regularizing all unauthorized constructions and illegal conversion without any concept of improvement in future will encourage unauthorized construction with a mentality that enforcement will never take place and people who are complying with byelaws and paying applicable fees/ charges may feel cheated. This situation will further reduce down chances of improved planned development in old/ core areas of municipalities.
2. Therefore, it is necessary that a concept of enforcement and planned future development of areas under ULBs shall be framed before granting relief of regularizing unauthorized constructions.

Part-A**Granting relief with respect to unauthorized construction.****Definition of Unauthorized construction under this policy shall be considered as follow:**

1. Building constructed as per norms of HBC or previous norms but permission from municipality has not been taken.
2. Permission from municipality taken but building not constructed as per approved building plans i.e. constructed beyond compoundable limits.
3. Permission from Municipality not taken and also constructed building beyond compoundable limits.

Applicability of the Part-A of the policy:

The Part-A shall be applicable in the core area of municipality only.

Procedure of submitting application for regularization:

1. The applicant shall submit an online application to Municipality for regularization of unauthorized construction on prescribed format along with scrutiny fee (@Rs 10/ Square Metres), Compounding fee (only for compoundable construction), Development charges (if not paid earlier or difference of earlier charge and present applicable charge), Labour cess (if applicable). No charge is to be levied for unauthorized construction beyond compoundable limit, as it is to be rectified/ demolished by the applicant in a period of 10 years
2. The applicant has to submit online application along with following documents:
 - a. Last paid receipt of property tax
 - b. Ownership documents: Aks-Shajra, Jamabandi, Intkaal (Mutation), Registry or NOC from Tehsildar informing that there is clear ownership of applicant on site and there is no legal ambiguity.
 - c. Geo-coordinates of applied Site.
 - d. Affidavit/ Undertaking that the applicant shall rectify his non-compoundable construction in accordance to parameters specified in the Haryana Building Code within a period of 10 years, and in case he would not meeting building plans, then municipality has right to take all actions to bring building as per law and no immunity shall be claimed from the Hon'ble Court.
 - e. Complete set of Built-in drawings of existing building on applied site in .DWG format includes Site plan, all floor Plans, 2 sections and 2 elevations. (all area measurements and dimensions shall be metric system).
 - f. Structural safety certificate from the Structure Engineer. (along with Structural engineer qualification certificate).
 - g. Indemnity Affidavit from the applicant that in case of any mishap/ accident due to building, he shall be responsible and shall pay applicable cost/ penalty.
3. The application received online shall be scrutinized through scrutiny software (at present under development) which shall generate two reports and one zoning plan of site, as follows:-
 - a. One showing extent of violation made and rectification to be made.
 - b. Another report showing norms of the HBC applicable on site.
 - c. The municipality shall provide certification on the generated reports and plans to the applicant.

The Concept for granting relief for unauthorized construction:

1. This policy shall not be a blanket regularization policy, but a policy under which if applied only then relief be provided. The application for regularization of constructions shall be considered only if received within 2 years from the date of publication/ notification of this policy.
2. The regularization of unauthorized construction shall be permitted for only 10 years and within these years, the applicant has to construct/ rectify his building as per the Building Byelaw/ Code.
3. The Department shall prepare an IT based platform to record all submitted information on unauthorized construction and prepare a complete database on central server, integrated with the software, which will scrutinize the buildings plans and prepare report on violations. The report will be provided to the applicant whom he has to correct in span of 10 years.

4. The online system shall issue reminders/ notices every year from issuance of certification of regularization, informing the applicants about the time left for correcting unauthorized construction and obtaining Occupation Certificate from MC, accordingly.
5. The applicant after correcting the construction shall submit request along with As-Built Drawing of building to issue completion certificate to municipality. The online system shall scrutinize "As-Built Drawing" with the corrected plan issued and site verification by municipal official, before issuing Occupation Certificate.
6. After completion of period, the online system shall issue notices to all defaulter who have not applied for Occupation Certificates. Thereafter, Municipality shall take action against defaulters by way of sealing, demolition, penalty/ fine or referring case to the Court, as per applicable Statutes/ Rules/ byelaws.

Mode of Implementation:

1. The implementation of policy shall be initiated by developing an online system integrated with GIS application and scrutiny system with no human interference after incorporating the data of the applicant.
2. The system shall scrutinize the data of unauthorized constructions and generates two drawings and reports. One showing the extent of existing violations and second showing the building to be constructed as per parameters of the Building Code/ Byelaw.
3. The system shall generate notice to the applicant via email, SMS service and post to comply with the 2nd drawing and report every year of issuing permission.
4. Only those unauthorized constructions shall be regularized which will be applied for regularization to the municipality.

Responsibility of municipality:

1. Other than applied cases, municipalities shall upload data related to all applied/ approved/ rejected building plans cases (till date) along with their additional geographical information in the data base, so that the same shall be followed up for the online system for compliance of applicable rules, payment of pending fee/ charges and obtaining of Occupation Certificate. The system shall also issue notices w.r.t applied cases for compliance.
2. Along with certified unauthorized building plans, the municipalities shall initiate preparation of existing land use plan of Core/ Old area showing residential, commercial, institutional, industrial, transport, open/ green space and any other land use (if required) with the purpose to know existing situation.
3. The municipality, if required may divide the core/ old areas into several blocks for the purpose of re-development/ planning of same.
4. The municipality shall analyse the extent of unauthorized construction within the blocks or core/ old areas and prepare a re-development scheme/ plan for the same.
5. The re-development plan of block or core area shall include following:
 - a. Widening of existing street by acquiring land from the existing plots by offering additional FAR/ exemption from property tax/ awarding compensation/ any other viable offer for de-congesting streets and providing light and ventilation and green spaces in core areas.
 - b. All street less than equal to 6 metres width shall be declared as "No Vehicle Street" and shall only be utilized by pedestrian and cyclist.
 - c. All streets above 10 metres width shall have pedestrian pathway of at least 1.2 metre width on both side of road. Street between 6 to 10 metres width shall have 1.5 metres width pedestrian pathway only at one side of road. This pathway shall be modular which shall house underground sewerage, water supply, storm water drainage or electricity line, and other service. (Modular pathway means a pre-designed module made of concrete or other material of specific width size with provision to accommodate services.)
 - d. Vehicular traffic within core areas shall be discouraged by developing roads/ street for pedestrian and cyclist movement and developing common spaces for vehicular parking
 - e. Designated breathable spaces shall be developed as water bodies (for improving water table) and parks.
 - f. Tree plantation along pedestrian pathway of street above 10 metres width and street which declared as "No Vehicle Street".

6. The municipality shall improvise its enforcement and planning mechanism by appointing staff and other technological measures, such as:
 - a. The online scrutiny system shall also act as an enforcement system, as it will keep on issuing timely notices/ reminders to applicant and notification to MC officials.
 - b. Additional posts of enforcement staff like Building Inspectors, Municipal Engineers, Architects, Urban Planner, etc. shall get sanctioned from the Government on the basis of population of municipality/ urban area. *i.e.*
 - i. For Every 20000 population – 1 Building inspector and 1 Municipal Engineer.
 - ii. For every 50000 population – 1 Assistant Architect, 1 Assistant Town Planner, 1-SDE.
 - iii. For Every 100000 Population – 1 Architect, 1 Deputy Town Planner, 1 Executive Engineer.
 - iv. For every 300000 Population – 1 Senior Architect, 1 Chief Town Planner, 1 Senior Town Planner, 1 Chief Engineer and 1 Superintending Engineer.
 - v. Similarly other posts shall be categorized.

Financial aspect:

1. The State Government may allocate separate budget for assisting ULBs to prepare redevelopment schemes for core areas/ old areas/ notified colonies.
2. Further, the ULBs shall also allocate separate budget for redevelopment schemes.
3. Funding for redevelopment of core/ old areas may also be taken Centre Government under AMRUT and other redevelopment schemes.
4. The applicants rectifying its non-compoundable construction as per HBC may be provided financial help by the Government under State or Central Government schemes of redevelopment of existing area.
5. The applicants may also be given 50% rebate on property tax, equivalent to expenditure of applicant occurred in rectifying the building/ unauthorized constructions.

Part-B**Regarding regularization of illegal conversion in the core area.**

This part of the policy allows the regularization of illegal conversion from residential to commercial in the municipal limits. Due to the demand and market forces the old residential areas are converted into the commercial. It is a fact that the commercial area developed legally or illegally when there is a threshold for it. By keeping this aspect into practical situation this part of the policy deals with the regularization of the illegal conversion from residential to commercial within core areas. Earlier also the Government brought a policy vide memo dated 06.04.2016 for regularization of illegal conversion and allowed conversion in the planned scheme *i.e.* Rehabilitation scheme, Town Planning scheme and Improvement Trust Scheme.

Applicability of the Part-B of the policy:

The Part-B shall also applicable in the core area of municipality only.

Definition of Illegal conversion under this policy shall be considered as follow:

1. Converting use of plot other than permitted/ approved by the Government for the planned scheme developed in core areas.
2. Converting use of plot other than permission sought from municipality while approval of building plans.
3. No permission taken from municipality for constructing building and defining use of plot/ building.

Procedure for the regularization of illegal conversion:

1. The applicant shall submit an online application on prescribed format to municipality for seeking permission to change use of plot or regularize use of building along with scrutiny fees (@ Rs. 10 per square metre), Conversion charges (as per Use) and compounding fee (for not obtaining Occupation Certificate *i.e.* illegal occupation of building even if the building plan stand approved) along with following documents:

If the building plans already stand approved:

- i. The certified copies of the building plans approved by the municipality for the said site.
- ii. The occupation certificate issued by the municipality (if obtained), to avoid compounding fee for illegal occupation.
- iii. Building plans showing parking arrangement required after permitting conversion.

If the building plans are not approved (i.e. unauthorized construction):

- i. Ownership documents pertaining to the site/ building. (Details at Part-A)
- ii. Structural safety certificate from the Structure Engineer. (along with Structural Engineer qualification Certificate)

General documents:

- i. Dimension of site along with Geo-Coordinates.
 - ii. Complete 2 sets of As-built drawings of existing building (details stated in Part-A) in .DWG format.
 - iii. An affidavit that he shall abide by the decision taken by the municipality on his application and shall follow directions issued by municipality w.r.t approval of building plans and restoring use of building (as per case).
 - iv. An affidavit that the applicant shall make necessary arrangement for keeping parking generated because of conversion within premises of plot.
 - v. An affidavit that the applicant shall transfer 1.5 metres width of land (in case of planned scheme) and 1 metres for rest of core areas, adjoining the road from his property to the municipality for free of cost for road widening and laying of other services, in lieu of proportionate additional FAR free of cost.
2. The municipality after receipt of the application shall examine the case and after checking parameters stated below at site, shall decide application within 30 days from the receipt of application:
- i. Commercial Conversion shall be permitted to those buildings/ site which are falling on roads more than and equal to 9 metres width.
 - ii. In case road is less than 9 metres wide then commercial conversion is permitted only if the road is declared as no-vehicle road and shall only be accessed pedestrian and cyclist.
 - iii. In no case, the commercial conversion is permitted on road less than 6 metres width.
 - iv. The conversion to plots falling in any planned scheme stated in definition above shall be permitted only if 60% of the plots falling along major roads or 60% of total plots in the scheme stand commercially converted.
 - v. In case of commercial conversion in rest of core areas, the commercial conversion is permitted along the roads stated above upto the depth of 100 metres from the road.
 - vi. The plots falling in the planned scheme shall be permitted to convert only if it is not sub-divided from its original size of the scheme.

The Concept of Policy:

1. The policy shall permit conversion only if the applicant applies with written request along with applicable scrutiny fee, conversion charges and any other charges specified by the Government.
2. The conversion of plots is permitted only if the said plot has not been subdivided from original size or being used for multiple purposes. (i.e. residential, commercial, institutional, etc.)
3. All such application shall be submitted only on online system developed by the Department vide which data of such conversion shall be kept in record. This record will help municipalities to know the extent of conversions coming in given locality, vide which the extent of up-gradation of infrastructure required will be assessed and converting existing spaces (such as park in residential area) into underground parking areas with parks over it, plazas and other required spaces needed for commercial establishment (only if more than 60% of plots get converted in commercial).

Mode of Implementation:

1. This policy shall not be a blanket regularization of conversion policy, but a policy under which if applied only then relief be provided. The application for conversion shall be considered only if received within 2 years from the date of publication/ notification of this policy.
2. The policy shall be implemented via a online system developed by the Department integrated with GIS application in which data pertaining to defined earlier use of the plot and present use of plots for which request of conversion has been made are to be incorporated. The said system shall also be integrated with the online building plans approval and scrutiny system.
3. The applicant has to submit request application for conversion on the online system along with requisite documents and applicable fees/ charges stated separately in the policy.
4. The municipality shall examine the application on the basis of parameters stated in the policy separately and decide whether conversion is to be permitted or not.
5. In case of both sanction/ rejection of application, the municipality shall incorporate the received data received in the online building plan approval and scrutiny system.
6. The system in case of rejected application shall issue notice to the applicant to get the building restored to its original use within time period specified in Municipal Acts and in case of unauthorized construction he has to get its building plan certified approved as per Part-A of this policy.
7. In case, the applicant is permitted to change of use plot/ building, he has to get its building plan approved or re-approved (if already approved under different use) via online building Plan approval and scrutiny system. In case of unauthorized construction beyond compoundable limits the applicant has to apply for regularization of building plan under Part-A of the Policy.

Responsibility of municipality:

1. The Municipality shall conduct survey of all planned schemes within core areas w.r.t total number of illegally converted buildings/ plots to know the extent of conversion in planned scheme and based on the generated data shall permit conversion.
2. The municipality shall get the generated data on online system and based on that shall issue notice via the system to all concern who have illegally converted their buildings/ plots either to get it regularized or restore it in original use.
3. All such planned scheme where more than 60% of plot stand commercially converted, the municipality shall re-design all its common spaces like parks/ community centres/ commercial plots, etc. into underground parking lots to accommodate additional parking requirement, central plazas at top along with green breathable spaces.
4. The municipality shall also conduct survey to identify commercial establishments along roads with width less than 9 metres to 6 metres and issue notices via system to all owners of illegally converted plots/ buildings.
5. Since, to permit commercial conversion on roads between 9 to 6 metres width, the roads shall required to be declared as non-vehicle zone, the Municipal shall declare such road as Non-vehicle Street under relevant provision of Municipal Acts.
6. The municipality shall ensure that all such declared roads shall have all entries and exits sealed for all kind of motor vehicles (including two wheelers) by placing concrete columns/ block of height 500 mms and width 150 mms and at placing of 600 mm clear distance from each other. Such street shall have dedicated pedestrian lane of minimum 2 metres width, 1 metre wide of jogging track, green space for installing trees/ plantation and rest for cyclist movement. (such blocks may be removable at night time to park cars (from 9:00PM to 6:AM)
7. The municipality shall identify spaces (both private/ public) nearby the streets declared as Non-vehicle streets for converting such spaces as parking lots or breathable spaces like park or water bodies, as per requirement of locality.
8. The municipality shall acquire land 1.5 metres width of land (in case of planned scheme) and 1 metres for rest of core areas in lieu of additional FAR to owners for the purpose of decongest core areas and to lay additional required services.
9. The Re-development of area shall be executed as stated in Part-A of this Policy.

10. Rest of the responsibilities of municipalities shall be referred in Part-A of this Policy.
11. For non-compoundable construction action stated in Part-B of the policy shall be referred.

Fee/ charges:

In order to regularize the illegal conversion from the residential to commercial the following fee/ charges would be paid by the person/ applicant:

- i. Scrutiny fee @ Rs. 10/- per sq. mtr.
- ii. Conversion charges at the rate decided by the Government and approved by CMM from time to time.
- iii. External Development Charges at the rate of Commercial EDC for the area of the building on all floors. (in case, the owner willing transfers its land as stated above, then is not required to pay any EDC charges). The municipality shall acquire land along streets as stated above under relevant provision of the Municipal Act from the EDC generated.
- iv. Compounding fee for the illegal occupation, DPC certificate (if OC is not obtained) and compoundable construction(if any) calculated over the building area.

Repeal and savings:

The pending applications if any, received for regularization of illegal conversion at the time of prevailing of the policy for Commercial Street will be dealt and decided under Part-B of this policy. If the applicant has already submitted fee/ charges at the time of submission of the application under the commercial street policy then the same will be adjusted. After adjustment of the fee/ charges, applicant needs to pay the balance fee/ charges if any workout by the Municipality.

Appeal:

If any is person aggrieved from the decision of Municipal Corporation/ Council/ Committee can file an appeal before the Principal Secretary to Govt. Haryana, Urban Local Bodies Department within the 30 days from the date of the decision.

ANAND MOHAN SHARAN, IAS
Principal Secretary to Government Haryana,
Urban Local Bodies Department , Haryana, Chandigarh.